S.B. CIVIL WRIT PETITION NO.665/2005
Hardeep Singh Vs. State of Raj. & Ors.

Date : 8.2.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. N.L. Joshi, for the petitioner.

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Heard learned counsel for the petitioner.

The matter relating to irrigation facility was subjected to litigation and ultimately, the orders wee passed by the original authority, first appellate authority and second appellate authority and thereafter, by this court in writ petition and finally the Division Bench of this Court in D.B. Special Appeal No.599/1997 vide judgment dated 24.4.2000 remanded the matter back to Additional Chief Engineer for deciding the matter afresh as per law.

After the decision of Division Bench, the Additional Chief Engineer decided the matter against the petitioner vide order dated 13.8.2001 which was again challenged by petitioner by filing writ petition no.3801/2001 before this Court but the petitioner by exercising his own discretion withdrew the said writ petition and preferred to challenge the order dated 13.8.2001 before the Civil Court. The petitioner, instead of challenging the order dated 13.8.2001, filed a suit for mere injunction before the Civil Court. Thereafter, the petitioner voluntarily withdrew that suit and has again come before this Court to challenge the order dated 13.8.2001.

It is clear from the facts mentioned above that the petitioner himself challenged the order dated 13.8.2001 by

filing writ petition on earlier occasion and withdrew the same and availed the alternate remedy of filing suit which he thought was a proper remedy and thereafter withdrew the suit, therefore, the petitioner abandoned his right to challenge the order dated 13.8.2001 by his conduct and actions.

In view of the above, this writ petition deserves to be dismissed only on the ground that the petitioner availed the remedy and failed in pursuing the remedy and, therefore, cannot maintain this writ petition.

Accordingly, this writ petition, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya